

48A C.J.S. Judges § 23

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

II. Selection, Eligibility, and Qualification

A. Selection

1. In General

§ 23. Generally

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  ³

The power to select judges is derived from the people and can be exercised only by the authority to whom it is given.

The power to select judges, like all other powers, is derived from the people.¹ Constitutional or statutory provisions transferring the direct selection of judges from the people must be plain and unambiguous.² It can be exercised only by the authority to whom it is so given³ and cannot be delegated.⁴ Any encroachment on the exercise of such power is void.⁵

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Footnotes

- 1 Cal.—Fay v. District Court of Appeal, Second Appellate Dist., Division Two, 200 Cal. 522, 254 P. 896 (1927).
- 2 Cal.—Fay v. District Court of Appeal, Second Appellate Dist., Division Two, 200 Cal. 522, 254 P. 896 (1927).
- 3 N.J.—Perry v. Bianchi, 96 N.J.L. 113, 114 A. 452 (N.J. Sup. Ct. 1921).
- No statutory or inherent authority in judge to create judicial office or make indefinite appointments**
Ga.—Massey v. State, 265 Ga. 632, 458 S.E.2d 818 (1995) (disapproved of on other grounds by, Lewis v. McDougal, 276 Ga. 861, 583 S.E.2d 859 (2003)).

- 4 N.Y.—*People v. Dooley*, 69 A.D. 512, 75 N.Y.S. 350 (2d Dep't 1902), *aff'd*, 171 N.Y. 74, 63 N.E. 815 (1902).
- 5 S.D.—*State ex rel. McGee v. Gardner*, 3 S.D. 553, 54 N.W. 606 (1893).

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